

ORDINANCE NO. 807, FOURTH SERIES

**AN ORDINANCE OF THE CITY OF SHAKOPEE, MINNESOTA
AMENDING THE CITY CODE BY ADDING NEW CHAPTER 16
REGARDING WATER RESOURCES MANAGEMENT**

THE CITY COUNCIL OF THE CITY OF SHAKOPEE, MINNESOTA, ORDAINS:

Section 1 – The City Code is amended by adding new Chapter 16, WATER RESOURCES MANAGEMENT as follows:

SEC. 16.01. TITLE, PURPOSE AND INTERPRETATION.

Subd. 1. Title. Chapter 16 of the Shakopee City Code shall be known and may be referred to as the “Water Resource Ordinance” or the “Water Resource Chapter.” When referred to herein it shall be known as “this Chapter.”

Subd. 2. Purpose. This Chapter is established to promote, preserve and enhance natural resources within the City of Shakopee and protect them from adverse effects occasioned by poorly sited development or incompatible activities by regulating land disturbing or development activities that would have an adverse and potentially irreversible impact on water quality and unique or fragile environmentally sensitive land. This Chapter minimizes conflicts and encourages compatibility between land disturbing and development activities and environmentally sensitive lands. By requiring detailed review standards and procedures for land disturbing or development activities proposed for such areas, this Chapter achieves a balance between urban growth and development and the protection of water and natural resources within the City.

Subd. 3. Scope.

A. Applicability:

1. Every applicant for subdivision approval, a conditional use permit, or a grading permit to allow land disturbing activities must submit a stormwater management plan to the Engineering Division of the City’s Public Works Department. The stormwater management plan shall be submitted with the land use application, grading permit application, or as directed by the Public Works Director. No subdivision approval or grading permit will be issued until approval of the stormwater management plan or a waiver has been obtained in conformance with the provisions of this Chapter.
2. Every applicant for subdivision approval or a grading permit that involves wetland disturbing activities or work near wetlands must submit a wetland assessment and delineation report to the Engineering Division. The wetland assessment and delineation report shall be submitted with the land use application, grading permit application, or as directed by the Public Works

Director. No subdivision approval or grading permit will be issued until approval of the wetland replacement plan application or a Certificate of Exemption has been obtained in conformance with the provisions of this Chapter and the Minnesota Wetland Conservation Act of 1991, Minnesota Statutes Sections 103G.222 - .2373 ("WCA").

3. Every applicant for a building permit, subdivision approval, conditional use permit, or a grading permit must submit an application for an erosion control plan to the Engineering Division. The erosion control permit application and erosion control plan shall be submitted with the building permit application, land use application, grading permit application, or as directed by the Public Works Director. No grading permit or building permit will be issued until approval of the erosion control plan has been obtained in conformance with the erosion control measures, standards and specifications contained in the Minnesota Pollution Control Agency publication, "Protecting Water Quality in Urban Areas" or as otherwise approved by the Public Works Director.
4. Construction, improvement, repair, or alteration of bridges, culvert crossings, driveways, roads, or utilities must obtain a grading permit if the activity involves crossing or impacting a watercourse with a tributary area in excess of 100 acres. The applicant shall provide documentation prepared by an engineer demonstrating that the hydraulic capacity of the watercourse conforms to the City's Comprehensive Water Resource Management Plan and that activities improve watercourse stability.

B. Exemptions: The provisions of this Chapter do not apply to:

1. Any part of a subdivision if a preliminary plat for the subdivision that has been approved by the City Council on or before the effective date hereof;
2. Any land disturbing activity for which plans have been approved by the watershed management organization having jurisdictional control of the land within six months prior to the effective date hereof;
3. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles;
4. Excavations or land moving activities involving less than 50 cubic yards of soil;
5. Emergency work to protect life, limb, or property.

C. Waiver: The Public Works Director may waive any of the requirements of this Chapter upon making a finding that compliance with the requirement will involve an unnecessary hardship and the waiver of such requirement will not adversely

affect the water quality and natural resources of the City or adversely impact environmentally sensitive land. The Public Works Director may require as a condition of the waiver that the applicant dedicate easements or construct certain facilities as he or she deems necessary.

Subd. 4. Application of this Chapter.

- A. In their interpretation and application, the provisions of this Chapter shall be the requirements for the promotion of water resource management within the City.
- B. Where any provision of this Chapter is either more restrictive or less restrictive than a comparable provision imposed by any other code, ordinance, statute, rule or regulation of any kind, the more restrictive provision, or the provision which imposes a higher standard or requirement shall prevail.
- C. Words or terms defined in this Chapter shall have the meanings assigned to them unless such meaning is clearly contrary to the intent of this Chapter. The present tense shall include the past and future tenses.

SECTIONS 16.02. - 16.10 Reserved.

SEC. 16.11. STORMWATER MANAGEMENT

Subd 1. Stormwater Management Plan.

A. Application Procedures.

- 1. Application. A written application for stormwater management plan approval, along with a proposed stormwater management plan, shall be filed with the Engineering Division of the City's Public Works Department. The application shall include a statement indicating the grounds upon which the approval is being requested, that the proposed use is permitted by right or as an exception in the underlying zoning district, and adequate evidence showing that the proposed use will conform to the standards set forth in this Chapter and the City Code.
- 2. Required plan submittals. Two sets of clearly legible blue or black lined copies of drawings, electronic copy of drawings, and required information shall be submitted to the Engineering Division along with the process and approval fee. Information provided shall be prepared per the most recent edition of the City Design Criteria and certified by an engineer licensed in the State of Minnesota. Drawings shall be prepared to a scale appropriate to the site of the project and suitable for the review to be performed. The plans shall be drawn at a minimum scale of one inch equals 100 feet and shall contain the following information:

- a. Existing site map. A map of existing conditions showing the site and immediately adjacent areas within 200 feet of the site, including:
- i. The name and address of the applicant, the section, township and range, north point, date and scale of drawing and number of sheets;
 - ii. The location of the property by showing an insert map at a scale sufficient to clearly identify its location and giving such information as the name and numbers of adjoining roads, railroads, utilities, subdivisions, cities, townships and districts or other landmarks;
 - iii. The existing topography with a contour interval appropriate to the topography of the land but in no case having a contour interval greater than two feet;
 - iv. A delineation of all ponds, infiltration features, streams, rivers, public waters and wetlands located on and immediately adjacent to the site, including the depth of the water, the normal water level (NWL), the 100-year high water level (HWL), the ordinary high water level (OHW), a description of all vegetation which may be found in the water, a statement of general water quality and any classification given to the water body or wetland by the Minnesota Department of Natural Resources, the Minnesota Pollution Control Agency or the United States Army Corps of Engineers;
 - v. The location and dimensions of existing stormwater drainage systems and natural drainage patterns on and immediately adjacent to the site delineating in which direction and at what rate stormwater is conveyed from the site, identifying the receiving stream, river, public water, or wetland, and setting forth those areas of the unaltered site where stormwater collects;
 - vi. A description of the soils of the site, including a map indicating soil types of areas to be disturbed as well as a soil report containing information on the suitability of the soils for the type of storm water system proposed and describing any remedial steps to be taken by the applicant to render the soils suitable;

- vii. The location and description of any vegetative cover and a clear delineation of any vegetation proposed for removal;
 - viii. The location of 100 year floodplains, flood fringes and floodways;
 - ix. The locations of any existing overhead or underground utilities;
 - x. The locations of property lines and easements; and
 - xi. A City approved benchmark listing location and elevation.
- b. Site construction plan. A site construction plan including:
- i. Locations and dimensions of all proposed land disturbing activities and any phasing of those activities;
 - ii. Total site area;
 - iii. Total area to be disturbed;
 - iv. Locations and dimensions of all temporary soil or dirt stockpiles;
 - v. Locations and dimensions of all construction site erosion control measures necessary to meet the requirements of this Chapter.
 - vi. A schedule of the anticipated start and completion date of each land disturbing activity including the installation of construction site erosion control measures needed to meet the requirements of this Chapter; and
 - vii. Provisions for maintenance of the construction site erosion control measures during construction.
- c. Plan of final site conditions. A plan of final site conditions on the same scale as the existing site map showing the proposed site changes including:
- i. Finished grading shown at contours at the same interval as provided above or as required to clearly indicate the relationship of proposed changes to existing topography and remaining features;

- ii. A landscape plan, drawn to an appropriate scale, including dimensions and distances and the location, type, size and description of all proposed landscape materials which will be added to the site as part of the development;
 - iii. A drainage plan of the developed site delineating in which direction and at what rate stormwater will be conveyed from the site and setting forth the areas of the site where stormwater will be allowed to collect;
 - iv. The proposed size, alignment and intended use of any structures to be erected on the site;
 - v. A clear delineation and tabulation of all areas which will be paved or surfaced, including a description of the surfacing material to be used;
 - vi. Any other information pertinent to the particular project which, in the opinion of the applicant or the Public Works Director, is necessary for the review of the project;
 - vii. Proposed normal water level (NWL), 100 year high water level (HWL), ordinary high water level (OHW) of any ponds, infiltration facilities, streams, rivers, public waters, or wetlands on or downstream from the site;
 - viii. Building elevations including low floor elevations and low building opening elevations; and
 - ix. Overland emergency overflow routes and their elevations.
- d. Stormwater calculations. Calculations demonstrating the following data shall be provided, according to the method established by the Engineering Division:
- i. Drainage maps that show the site, land that drains onto the site, and land that the site drains onto for existing and proposed conditions. Delineated drainage areas for ponds, wetlands, or other relevant waters should be indicated on these maps;
 - ii. A stormwater model conforming to Engineering Division standards that includes drainage areas, cover types, pond and wetland sizes, pond and wetland outlets, and natural or piped conveyance systems;

- iii. Peak runoff rates from the site before and after development demonstrating that the proposed conditions conform to the policies outlined in the City's Comprehensive Water Resources Management Plan;
- iv. Volume of runoff from the site before and after development;
- v. National Urban Runoff Program ("NURP") volume below the normal outlet required and provided in each pond;
- vi. Infiltration calculations for proposed conditions;
- vii. A narrative summarizing the calculations and demonstrating that proposed drainage alterations do not unreasonably burden upstream or downstream land; and
- e. Soil borings, if requested by the Public Works Director.
- f. Fees. All applications for stormwater management plan approval shall be accompanied by a processing and approval fee as set by the most recent edition of the City's Adopted Fee Schedule.

B. Stormwater Management Plan Review Procedure.

1. Process. Stormwater management plans meeting the requirements of this Chapter shall be submitted to the Engineering Division of the City's Public Works Department for the Public Works Director's review and approval. The Public Works Director shall recommend approval, approval with conditions, or denial of the stormwater management plan to the Planning Commission. Following Planning Commission review, the stormwater management plan shall be submitted to the City Council for its review along with the Planning Commission's recommendation.
2. Duration. Approval of a stormwater management plan submitted under the provisions of this Chapter shall expire two years after the date of approval by the City Council unless construction has commenced in accordance with the plan. However, if prior to the expiration of the approval, the applicant makes a written request to the Public Works Director for an extension of time to commence construction setting forth the reasons for the requested extension, the City Council may grant one extension of not greater than one single year.
3. Revisions. A stormwater management plan may be revised. All revised plans must contain all information required by this Chapter and must be reviewed and approved by the Public Works Director.

4. Conditions. A stormwater management plan may be approved by the City Council subject to compliance with conditions that are necessary to ensure that the requirements contained in this Chapter are met. Such conditions may, among other matters, limit the size, kind or character of the proposed development; require the construction of structures, drainage facilities, storage basins and other facilities; require replacement of vegetation; establish required monitoring procedures; require that the work be staged over time; require alteration of the site's design to ensure buffering; or require the conveyance to the City or other public entity of certain lands or interests therein.
5. Upon approval of the stormwater management plan by the City Council, the applicant shall enter into an agreement with the City to ensure that any required improvements are constructed, any required easements are granted or dedicated and that there is compliance with any conditions imposed by the City Council. The agreement shall guarantee completion and compliance with the conditions within a specific time, which time may be extended by the City Council. The agreement shall be in a form acceptable to the City.
6. Financial guarantee. Upon approval of the stormwater management plan by the City Council, the applicant shall submit a letter of credit, or cash escrow, to cover 125 percent of the amount of the established cost of complying with the stormwater management plan. This financial guarantee shall be in a form acceptable to the City and may be incorporated into the financial guarantee provided for grading activities or the financial guarantee provided for street and utility activities.

C. Stormwater Management Plan Approval and Implementation Standards.

1. Compliance with standards. No stormwater management plan which fails to meet the standards contained in this Section shall be approved by the City Council.
2. The City adopts the Minnesota Pollution Control Agency publication "Protecting Water Quality in Urban Areas" as its stormwater runoff design standards.
3. Site dewatering. Water pumped from a site may not be discharged in a manner that causes erosion or flooding of the site or receiving channels or a wetland.
4. Waste and material disposal. All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, toxic materials or

hazardous materials) shall be properly disposed of off-site and not allowed to be carried by runoff into a receiving channel or storm sewer system.

5. NPDES permit. Any applicant required to obtain a National Pollutant Discharge Elimination System (NPDES) general stormwater permit from the Minnesota Pollution Control Agency shall, prior to the start of construction, submit written verification of such permit to the City.
6. Tracking. Each site shall have construction site entrances, graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each workday.
7. Drain inlet protection. All storm drain inlets shall be protected during construction until control measures are in place with a straw bale, silt fence or equivalent barrier meeting accepted design criteria, standards and specifications set forth in the Minnesota Pollution Control Agency publication "Protecting Water Quality in Urban Areas" and amendments to the publication.
8. Stormwater management requirements for permanent facilities.
 - a. An applicant shall install or construct, on or for the proposed land disturbing or development activity, all stormwater management facilities necessary to meet discharge rate criteria outlined in the City's Comprehensive Water Resources Management Plan. No private stormwater facilities will be approved by the City unless a maintenance plan is provided that defines who will conduct the maintenance, the type of maintenance and intervals of the maintenance. In the alternative, or in partial fulfillment of this requirement and upon approval of the Public Works Director, an applicant may make an in-kind or monetary contribution to the development and maintenance of regional stormwater management facilities designed to serve multiple land disturbing and development activities undertaken by one or more persons, including the applicant.
 - b. The applicant shall reduce the need for stormwater management facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales and depressions as they exist before development to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of the wetland or pond.

- c. The following stormwater management practices shall be investigated by the applicant in developing a stormwater management plan in the following descending order of preference, and the results of that investigation shall be provided to the City in written form as a part of the application:
 - i. Natural infiltration of precipitation on-site;
 - ii. Flow attenuation by use of open vegetated swales and natural depressions;
 - iii. Stormwater retention facilities; and
 - iv. Stormwater detention facilities.
- d. A combination of stormwater management practices may be used to achieve the applicable minimum control requirements specified in this Chapter. Justification shall be provided by the applicant for the method selected.
- e. A vegetative buffer shall be required for proposed open channel watercourses that drain 50 acres or more. All provisions in this chapter relating to wetland buffers shall also apply to watercourse buffers. The following additional provisions shall also apply:
 - i. Watercourses shall have a Wetland Management Class of "Low" as outlined in this Chapter to determine the required area and minimum width of the watercourse buffer.
 - ii. The required area of the buffer shall be calculated using the average buffer width as measured from the ordinary high water level (OHWL). If the OHWL has not been established, the normal water level may be used. If the normal water level is used, the applicant shall provide documentation prepared by an engineer defining the normal water level of the watercourse.
 - iii. Buffers for watercourses are not required for those watercourses that require mowing to maintain their designed hydraulic capacity, as determined by the Public Works Director.
 - iv. Alterations to facilitate erosion control improvements to stabilize the watercourse, including the use of hard-armoring such as riprap is allowed in watercourse buffers with an approved grading permit for the activities. Equivalent water

quality treatment shall be provided for buffer areas impacted by these activities.

9. Pond design standards. Stormwater detention facilities constructed in the City shall be designed according to standards established by the Engineering Division, and shall contain, at a minimum, the following design factors:
 - a. A permanent pool (dead storage) volume below the principal spillway (normal outlet) which shall be greater than or equal to the runoff from a two and a half inch rainfall over the entire contributing drainage area assuming full development;
 - b. A permanent pool average depth (basin volume/basin area) of four to 10 feet;
 - c. An emergency overflow (emergency outlet) adequate to control the one percent frequency/critical duration rainfall event;
 - d. Basin side slopes below the 100 year high water level should be no steeper than 4:1, and preferably flatter. A basin shelf with a minimum width of 10 feet and one foot deep below the normal water level is recommended to enhance wildlife habitat, reduce potential safety hazards, and improve access for long-term maintenance;
 - e. To prevent short-circuiting, the distance between major inlets and the normal outlet shall be maximized;
 - f. A flood pool (live storage) volume above the principal spillway shall be adequate so that the peak discharge rates meet the requirements of the City's Comprehensive Water Resources Management Plan;
 - g. Pond outlets may not be smaller than the minimum size indicated in the City's Comprehensive Water Resources Management Plan;
 - h. Consideration for aesthetics and wildlife habitat should be included in the design of the pond;
 - i. A skimming device must be provided to deter floatable pollutants from discharging out of pond;
 - j. Design of stormwater facilities shall accommodate the 100 year critical event (100 year, 24 hour storm event or 10 day snowmelt event). This includes lakes, ponds and their outlets.

- k. Pond normal water level elevations shall be established above the ordinary high water level of adjacent public waters, except where topography of the site, floodplain mitigation activities, or other design considerations are determined to be unfavorable for these conditions to occur. This determination shall be performed by the applicant's engineer and approved by the Public Works Director.
10. Infiltration Requirements. Best management practices to manage infiltration will be required to the maximum extent practical. "Maximum extent practical" shall be defined as the infiltration of runoff from a 100-year, 24-hour rainfall event within 72 hours.
- a. The "maximum extent practical" required may be less if the Public Works Director determines that one or more of the following conditions apply. If one or more of the following conditions apply, the Public Works Director shall quantify the amount of infiltration that will be deemed as the maximum extent practical for the site:
 - i. The infiltration characteristics of soils on the site are not favorable for the infiltration of stormwater;
 - ii. The site's drainage course is to regional infiltration or detention facilities controlled by the City that reduce runoff volumes;
 - iii. The development of the site does not increase the site's impervious areas; or
 - iv. Other site conditions that make the infiltration of stormwater impractical as determined by the Public Works Director.
 - b. Infiltration will be discouraged or not permitted in the following situations:
 - i. When documented past, present, or anticipated future land uses have resulted in or may result in contamination coming in contact with stormwater runoff; or
 - ii. When the areas for infiltration available on the site have less than a three foot separation from groundwater elevations.
 - c. Stormwater runoff shall be treated in a stormwater pond or by other means prior to entering an infiltration facility.

- d. The minimum infiltration requirements for any region of the City will be the requirements of the watershed district or watershed management organization policies that govern that region. These policies may be met through the use of regional or downstream systems prior to discharge of runoff to waters of the State.
- 11. Inspection and maintenance. All stormwater management facilities shall be designed to minimize the need for maintenance, to provide access for maintenance purposes and to be structurally sound. All stormwater management facilities shall have a plan of operation and maintenance that assures continued effective removal of pollutants carried in stormwater runoff. It shall be the responsibility of the applicant to provide or obtain any necessary easements or other property interests in order to allow the City access to the stormwater management facilities for inspection and maintenance purposes.
- 12. Stormwater and infiltration facilities must be located at least 50 feet away from the top of a bluff.
- 13. Watershed management plans/groundwater management plans. Stormwater management plans shall be consistent with adopted watershed management plans and groundwater management plans prepared by the Minnesota Board of Water and Soil Resources.
- 14. Easement. If the stormwater management plan involves direction of some or all runoff off of the site, it shall be the responsibility of the applicant to obtain from adjacent property owners any necessary easements or other property interests to permit the flow of water across the property.
- 15. Low Floor / Building Opening Elevations:
 - a. Any new development or redevelopment shall maintain a minimum building opening elevation of at least three feet above the anticipated 100 year high water elevation as a standard practice. However, if the applicant demonstrates that this requirement would be a hardship, the standard may be reduced to two feet if all of the following can be demonstrated:
 - i. That, within the two foot freeboard area, storm water storage is available which is equal to or exceeds 50 percent of the storm water storage currently available in the basin below the 100 year elevation;
 - ii. That a 25 percent obstruction of the basin outlet over a 24 hour period would not result in more than one foot of additional bounce in the basin; and

- iii. That an adequate overflow route from the basin is available that will provide one foot of freeboard for the proposed low building opening.
- b. Basement floor elevations must be set to an elevation that meets all of the following criteria:
 - i. The lowest floor elevation must be at least four feet above the currently observed groundwater elevations in the area;
 - ii. The lowest floor elevation must be at least two feet above the elevation of any known historic high groundwater elevations for the area. Information on historic high groundwater elevations can be derived from any reasonable sources including piezometer data, soil boring data, percolation testing logs, etc.; and
 - iii. The lowest floor elevation must be at least two feet above the 100 year high surface water elevation for the area unless it can be demonstrated that this standard creates a hardship. If the two foot standard is determined by the City Council to constitute a hardship, the standard shall be at least one foot above the highest anticipated groundwater elevation resulting from a 100 year critical duration rainfall event. The impact of high surface water elevations on groundwater elevations in the vicinity of the structure should take into consideration the site's distance from the floodplain area, the soils, the normal water elevation of surface depressions in the area, the static groundwater table and historic water elevations in the area. This information shall be provided by a registered engineer or soil scientist.
- 16. The impervious surface coverage of each lot must not exceed the impervious surface coverage allowed under the City's Zoning Ordinance.
- 17. Storm sewers shall be designed to accommodate discharge rates associated with a 10 year, 24 hour rainfall event.

Subd. 2. Stormwater and Urban Runoff Pollution Control.

A. Illegal disposal, discharges and connections.

- 1. No person shall intentionally dispose of leaves, grass clippings, dirt, gravel, or other landscape debris into a street, road, alley, catch basin, culvert, curb,

gutter, inlet, ditch, natural watercourse, flood control channel, canal or storm drain.

2. No person shall cause any illicit discharge to enter the City storm water system. For the purpose of this Chapter, illicit discharge is as defined in the City's Storm Water Pollution Prevention Plan (SWPPP) completed for the City's Municipal Separate Storm Sewer System (MS4) Permit.
3. No person shall use any illicit connection to intentionally convey non-storm water to the City storm water system.
4. No person shall leave, deposit, discharge, dump or otherwise expose any chemical or septic waste in an area where discharge to streets or a storm drain system may occur.

B. Maintenance of stormwater facilities. All private stormwater facilities shall be maintained by the property owner in a condition consistent with the performance standards under which they were originally designed. All settled materials from ponds, sumps, grit chambers and other devices, including settled solids, shall be removed by the property owner and properly disposed of at least once every five years. One to five year waivers from this requirement may be granted by the Public Works Director when the property owner presents evidence that the facility has additional capacity to remove settled solids in accordance with the original design capacity.

Subd. 3. Lawn Fertilizer Restrictions.

- A. Timing of fertilizer application.** No lawn fertilizer shall be applied when the ground is frozen and in no event during the period of November 15th through April 1st of the succeeding year.
- B. Impervious surfaces.** Lawn fertilizer shall not be applied, spilled or otherwise deposited on any impervious surface. Any lawn fertilizer applied, spilled or deposited, either intentionally or accidentally, on an impervious surface shall be immediately and completely removed.
- C. Buffer zones.** No lawn fertilizer shall be applied within any established wetland buffer zone or within 20 feet of the edge of any wetland, pond, river, creek or lake.
- D. Lawn fertilizer content and application rate.** No lawn fertilizer containing any amount of phosphorus or other compounds containing phosphorus, such as phosphate shall be applied to any turf within the City except when the following conditions apply:
 1. Newly established turf areas for the turf's first growing season; or

2. In turf areas in which a soil test confirms that the turf area is below phosphorus levels established by the University of Minnesota Extension Service. The fertilizer to be applied shall not contain an amount of phosphorus that exceeds the amount recommended in the soil test evaluation.
- E. **Notice requirement.** Retail businesses selling lawn fertilizer containing phosphorus shall post a notice in a conspicuous location near the lawn fertilizer notifying customers of the limitation on the use of lawn fertilizer containing phosphorous contained in this Section.
- F. **Violations.** For the first twelve months following the effective date of this Section, no penalty shall attach to a violation of this Section. Thereafter, a person violating any provision of this Section shall be guilty of a petty misdemeanor and upon conviction shall be subject to the penalties imposed by Minnesota Statutes for petty misdemeanor offenses.

SEC. 16.12. WETLAND MANAGEMENT.

Subd. 1. Areas Affected. This Section applies to all parcels containing wetlands as defined by the 1987 Corp of Engineers Wetlands Delineation Manual. This Section also applies to any parcel located near a wetland that would be required by this Chapter to have a wetland buffer or wetland buffer setback.

Subd. 2. Wetland Assessment and Delineation. A wetland assessment and delineation shall be submitted to the Engineering Division of the City's Public Works Department when required by this Chapter for review. The Public Works Director shall recommend approval, approval with conditions, or denial of the wetland assessment and delineation to the Planning Commission. Following Planning Commission review, the wetland assessment and delineation shall be submitted to the City Council for its review along with the Planning Commission's recommendation. The wetland assessment report and delineation must be performed and prepared by a qualified wetland specialist. Wetland delineation in the report shall be shown on a scaled drawing that also shows the location of existing and proposed property lines, buildings, and other topographic features of the site. For each wetland delineated in the report, a wetland management class as defined by the Minnesota Routine Assessment Method (MNRAM) for evaluating wetland functions – Version 3.1 or later version - must be assigned.

Subd. 3. Wetland Buffers. For any parcel created or redeveloped, a wetland buffer as defined in this section is required.

- A. **Required Wetland Buffer Dimensions.** Wetland buffer dimensions will be based on the wetland's management class as defined by MNRAM.

Wetland Management Class	Average Required Buffer Width	Minimum Required Buffer Width
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(MNRAM)	(feet)	(feet)
A. Exceptional	65	25
B. High	50	25
C. Medium	35	25
D. Low	25	25

The required area of the wetland buffer shall be calculated using the average buffer width as measured from the delineated wetland edge.

B. Required Wetland Buffer Vegetation. Vegetation within a wetland buffer shall be established and maintained as follows:

1. The first 25 feet of the wetland buffer as measured from the wetland delineation or public waters wetland ordinary high water level (OHWL) must not be disturbed during project construction (i.e. cleared or graded), with the exception of temporary disturbances for public roads and utility construction. This area must be protected from disturbance with temporary fencing prior to construction. If it is necessary to establish acceptable vegetation within the area so that it is in compliance with the vegetation requirements of this Section, vegetation may be removed and replaced and site soils preparation work may be performed within this area..
2. Where acceptable natural vegetation exists within the wetland buffer, the retention of such vegetation in an undisturbed state is required unless the applicant receives approval from the Public Works Director to replace such vegetation. A wetland buffer is considered to have acceptable natural vegetation if it has a continuous, dense layer of perennial grasses or an overstory of trees or shrubs that have been uncultivated or unbroken for at least five consecutive years. The City may determine existing vegetation to be unacceptable if the wetland buffer has undesirable characteristics such as noxious or invasive plant species or topography that channelizes the flow of runoff.
3. In cases where the wetland buffer does not contain vegetation or has been cultivated or otherwise disturbed within five years of the application, the wetland buffer area must be replanted with native seed mix approved by the Public Works Director and maintained until it is established. The proposed types of wetland buffer plantings, proposed maintenance and monitoring activities and schedule must be identified on the application. Any vegetation planted within the wetland buffer are independent of any landscaping that may be required elsewhere on the property by the City. During the first two full growing seasons, the owner must replant any wetland buffer vegetation that does not survive. After this time, the owner shall remain responsible for reseeding or replanting vegetation within the

wetland buffer if it changes at any time due to human intervention or activities.

C. Wetland Buffer Easements and Markers. When a wetland buffer is required pursuant to this Section, the applicant shall prior to issuance of any building permits by the City:

1. Submit to the City for its approval a conservation easement in favor of the City for protection of the wetland buffers and wetlands on the property, or include the wetland buffer and wetlands in an outlot dedicated to the City as part of the plat. The conservation easement shall legally describe the boundaries of the wetland or public waters wetland and the wetland buffer and identify the marker locations;
2. Record the conservation easement or final plat with the County and submit evidence thereof to the City;
3. Wetland buffers shall be marked to clearly designate their boundaries. At least one marker shall be required on each lot. There shall be at least one marker every two 200 feet along the edge of the wetland buffer.
4. A marker shall consist of a post and a sign indicating the presence of a wetland buffer. The applicant will be required to furnish and install four by four inch sign posts to a height of five feet above finished grade. The City will furnish and install the signs. If the applicant does not install the posts, the City will furnish and install them. Fees incurred by the City for post furnishing and installation will be paid by the applicant.

D. Wetland Buffer Alterations.

1. Alterations including building or placement of structures, storage of materials, paving, mowing, plowing, introduction of noxious vegetation, cutting for non-management purposes, dredging, filling, mining, dumping, grazing livestock, agricultural production, yard waste disposal or fertilizer application, are prohibited within the wetland buffer.
2. The following activities shall be permitted in the wetland buffer and shall not constitute prohibited alterations:
 - a. Removal of noxious vegetation such as, but not limited to, European buckthorn, purple loosestrife and reed canary grass;
 - b. Installation of new plantings that enhance the natural vegetation;
 - c. Selective clearing or pruning of trees or vegetation that are dead, diseased or pose similar hazards;

- d. Use and maintenance of one unimproved access strip through the wetland buffer for recreational access to a watercourse, where permitted. The strip shall be no greater than 20 feet in width;
- e. Construction, maintenance, repair, reconstruction or replacement of existing and future public roads, utilities, or drainage systems within a wetland buffer, so long as any adverse impacts of the construction and installation on the function of the wetland buffer have been avoided or minimized to the extent practical and the activity has been approved by the City;
- f. Construction of individual sewage treatment systems (ISTS) so long as the vegetation growing on the system is maintained in accordance with this Section, the area for the ISTS is not credited as wetland buffer area and the edge of the ISTS is located at least 35 feet from the delineated wetland edge;
- g. Clearing, grading and seeding if part of a Wetland Replacement Plan approved by the City;
- h. Maintenance, repair or replacement of trails; and
- i. Placement or maintenance of ponds or other stormwater treatment facilities, so long as the area of the pond is not credited as wetland buffer area and the embankment of the pond is located at least 35 feet from the delineated wetland edge.

E. Exceptions.

- 1. Wetland buffers and structure setbacks are not required for any residentially zoned lot of record as of the effective date of this Chapter.
- 2. Wetland buffers and structure setbacks are not required for any wetland that qualifies for a de minimus exemption under the Wetland Conservation Act.
- 3. Wetland Buffers and structure setbacks are not required for any wetland qualifying for an incidental wetland exemption under the Wetland Conservation Act.

Subd. 4. Structure Setbacks. Parcels that are newly created or redeveloped after the effective date of this Chapter are required to have a structure setback from the wetland buffer for all new structures. The structure setback shall be measured from outer edge of the wetland buffer. For residential parcels, a 30 foot front and rear yard structure setback and a 10 foot side yard structure setback is required from the wetland buffer. All non-residential parcels shall be required to provide a 10 foot structure setback for front, rear and side yards.

SEC. 16.13. EROSION AND SEDIMENT CONTROL.

Subd. 1. An erosion control plan shall be submitted to the Engineering Division of the City's Public Works Department when required by this Chapter along with a grading permit application. All applications for a grading permit shall be accompanied by a processing and approval fee as set by the City Fee Schedule. The erosion control plan shall contain all of the following with respect to conditions existing on site during construction and after final structures and improvements have been completed.

- A. A description of and specifications for sediment retention and settling devices;
- B. A description of, specifications for, and detail plates for surface runoff and erosion control devices;
- C. A description of vegetative measures;
- D. A detailed timetable for restoring all disturbed areas;
- E. A graphic representation of the location of all specified erosion and sediment control devices;
- F. An implementation schedule for installing and subsequently removing devices described above;
- G. A maintenance schedule for all sediment and erosion control devices specified;
- H. An estimate of the costs to implement all final and temporary erosion and sediment control measures;
- I. An information sheet on the parties responsible for constructing and maintaining the erosion control measures as shown on the erosion control plan. The information sheet should contain the phone numbers and addresses of at least two persons and indicate how they can be contacted at all times (days, nights, weekends, etc.) regarding repairing and maintaining the erosion control measures;
- J. The erosion control plan must contain details to specify which erosion and sediment control facilities are permanent and which are temporary; and
- K. If required, a Nationwide Pollutant Discharge Elimination System (NPDES) general stormwater permit must be obtained from the Minnesota Pollution Control Agency prior to commencing construction activities. The associated Stormwater Pollution Prevention Plan (SWPPP) should be included in the erosion control plan and approved by the Public Works Director prior to construction. A copy of the NPDES permit must be provided to the City prior to construction.

Subd. 3. Process. Erosion control plans meeting the requirements of this Chapter shall be submitted to the Engineering Division of the City's Public Works Department for the Public Works Director's review and approval. The Public Works Director shall recommend approval, approval with conditions, or denial of the erosion control plan to the Planning Commission. Following Planning Commission review, the erosion control plan shall be submitted to the City Council for its review along with the Planning Commission's recommendation.

Subd. 4. Implementation of an erosion control plan. Prior to the start of any earthwork activities, the permittee must have in place and functional the erosion controls as outlined on the approved erosion control plan. Additional erosion control measures may be required as directed by the Public Works Director.

- A. No earth moving activities shall commence until the erosion controls have been field inspected and approved by the Public Works Director.
- B. The permittee must maintain the erosion control on the site to the process. If the erosion control is not being maintained to the Director's satisfaction, the City may perform remedial work on the site as outlined in this section.
- C. All erosion control systems must be maintained by the permittee in an acceptable condition until turf is established or structural surfaces are constructed to protect the soil from erosion.

Subd. 5. Financial Security.

- A. Financial security. Upon approval of the erosion control plan by the City Council, the applicant shall submit a letter of credit, or cash escrow, to cover 125 percent of the amount of the established cost of complying with the erosion control plan. This financial guarantee shall be in a form acceptable to the City and may be incorporated into the financial guarantee required for grading activities.
- B. The City may draw on the letter of credit or cash escrow after providing the permittee with at least five business days notice.
- C. The City may act against the financial security if any of the conditions listed below exist:
 - 1. The permittee ceases land-disturbing activities or filling and abandons the work site prior to completion of the grading plan;
 - 2. The permittee fails to conform to the approved grading or erosion control plan;
 - 3. The techniques utilized under the erosion control plan fail within one year of installation; or

4. The Public Works Director has determined that additional action on the site is necessary to prevent excessive erosion from occurring.
- D. The City may use the funds from the financial security to reimburse itself for any remedial work undertaken by the City or its contractor, and for any administrative costs incurred in the process of performing the remedial work including, but not limited to, staff time and attorneys' fees.
- E. The financial security deposited with the City for faithful performance of the grading and erosion control work shall be released one year after the ground cover and other erosion control measures have been installed. All temporary erosion control measures, such as silt fences and hay bales, must be removed from the site prior to the City releasing the financial security.

Subd. 6. Inspection. Inspection of erosion control plan. The City will make periodic inspections of the site to ensure compliance with the erosion control plan.

Subd 7. Application Review and Inspection Fees.

- A. The City of Shakopee shall charge an application review fee for the review of the erosion control permit application and the erosion control plan. As part of this review, the City will review the permittee's as-built survey submitted after the completion of grading activities to ensure that it conforms to the overall erosion control plan for the area. The application fee shall be set by the City Fee Schedule.
- B. An inspection fee will be charged for any inspections of the site by the City that are needed to review corrective erosion control work or to follow up on previously incomplete work. This inspection fee will be deducted from the financial security. The amount will be set by the City Fee Schedule. If this fee is not paid within 45 days, the fee may be taken from the financial security posted by the applicant.

Subd. 8. Notification of failure of erosion control plan. The City shall notify the permittee of the failure of the erosion control measures that have been constructed. The notification will be by phone or fax to the parties listed on the information sheet required by this section. The City, at its discretion, may begin remedial work within 48 hours after notification has been provided.

Subd. 9. Erosion off-site. If erosion breaches the perimeter of the site, the permittee shall immediately develop a cleanup and restoration plan, obtain a right-of-entry from the adjoining property owner, and implement the cleanup and restoration plan within forty-eight hours of obtaining the adjoining property owner's permission. In no case, unless written approval is received from the Public Works Director may more than seven calendar days pass without any corrective action being taken. If at the discretion of the City, the permittee does not repair the damage caused by the erosion, the City may perform the remedial work required, after notice is provided to the permittee.

Subd. 10. Erosion into streets, wetlands or water bodies. If eroded soils enter, or entrance appears imminent into streets, wetlands, or other water bodies, cleanup and repair shall be immediate. The permittee shall provide all traffic control and flagging required to protect the traveling public during the cleanup operations. If at the discretion of the City, the permittee does not repair the erosion, the City may perform the remedial work required, after notice is provided to the permittee.

Subd. 11. Failure to do corrective work. When a permittee fails to conform to any provision of this Section within the time stipulated, the City may take the following actions:

- A. Withhold the scheduling of inspections;
- B. Withhold the issuance of a certificate of occupancy;
- C. Issue a stop work order;
- D. Direct the correction of the deficiency by City forces or separate contract. The issuance of an erosion control permit constitutes a right-of-entry for the City or its contractor to enter upon the construction site for the purpose of correcting deficiencies with respect to erosion control. All costs incurred by the City in correcting erosion control deficiencies, including administrative expenses, shall be reimbursed by the permittee. If payment is not made within thirty (30) days after an invoice is issued, the City may draw from the financial security. If the financial security is of an insufficient amount, the City may assess the remaining amount against the property. As a condition of the permit, the owner shall be required to waive notice of any assessment hearing to be conducted by the City, concur that the benefit to the property exceeds the amount of the proposed assessment, and waive all rights by virtue of Minnesota Statute 429.081 to challenge the amount or validity of the assessment.

SEC. 16.14 – 16.30. Reserved.

SEC. 16.31. PENALTY.

A person violating any provision of this Chapter shall be guilty of a misdemeanor and upon conviction shall be subject to the penalties imposed by Minnesota Statutes for misdemeanor offenses.

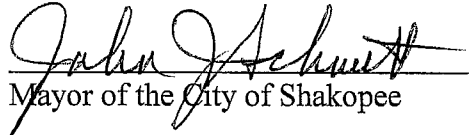
Section 2 – Summary Approved. The City Council hereby determines that the text of the summary ordinance marked “Official Summary of Ordinance No. 807”, a copy of which is attached hereto, clearly informs the public of the intent and effect of the ordinance. The Council further determines that publication of the title and such summary will clearly inform the public of the intent and effect of the ordinance.

Section 3 – Posting and Filing. A copy of this ordinance is filed in the office of the City Clerk and a copy is provided to the Shakopee Library for posting and filing, at which locations a copy is available for inspection by any person during regular office hours.

Section 4 – The City Clerk shall publish the title of this ordinance and the official summary in the official newspaper with notice that a printed copy of the ordinance is available for inspection by any person during regular office hours at the office of the City Clerk and Shakopee Library.

Section 5 – Effective Date. This ordinance becomes effective from and after its passage and publication.

Adopted in adj. reg session of the City Council of the City of Shakopee, Minnesota, held this 16th day of September 2008.


Mayor of the City of Shakopee

ATTEST:



 Deputy
City Clerk

Official Summary of Ordinance No. 807

**The following is the official summary of Ordinance No. 807, Fourth Series,
Approved by the City Council of the City of Shakopee, Minnesota on September 16, 2008.**

ORDINANCE NO. 807, FOURTH SERIES

AN ORDINANCE OF THE CITY OF SHAKOPEE, MINNESOTA, AMENDING THE CITY CODE BY ADDING NEW CHAPTER 16, REGARDING WATER RESOURCES MANAGEMENT

1. The Ordinance requires that every applicant for subdivision approval, a conditional use permit or a grading permit to allow land disturbing activities submit a stormwater management plan to the City. The Ordinance sets forth the stormwater management plan application and submittal requirements, the review procedure and the approval and implementation standards.
2. The Ordinance requires that every applicant for subdivision approval or a grading permit that involves wetland disturbing activities or work near wetlands submit a wetland assessment and delineation report to the City. The Ordinance sets forth the wetland assessment and delineation report review procedure and the approval and implementation standards. It also sets forth requirements and standards for wetland buffers, which are to be located within a conservation easement or outlot conveyed to the City.
3. The Ordinance requires that every applicant for a building permit, subdivision approval, conditional use permit or a grading permit submit an application for an erosion control plan to the City. The Ordinance sets forth the erosion control plan application and submittal requirements, the review procedure and the approval and implementation and inspection standards. It also requires that the applicant post financial security with the City to ensure compliance with the erosion control plan during the project. It also provides the City with enforcement mechanisms and sets forth penalties for non-compliance.
4. The Ordinance requires that construction, improvement, repair or alteration of bridges, culvert crossings, driveways, road or utilities that involve crossing or impacting a watercourse with a tributary area in excess of 100 acres to obtain a grading permit and provide the City with documentation that demonstrates that the hydraulic capacity of the watercourse conforms to the City's Comprehensive Water Resource Management Plan and that activities improve watercourse stability.
5. The Ordinance sets forth activities which are exempt from the requirements which are as follows: any part of a subdivision if a preliminary plat for the subdivision has been approved by the City Council; any land disturbing activity for which plans have been approved by the watershed management organization within the past six months; installation of fence or utility posts or poles; excavations or land moving activities involving less than 50 cubic yards of soil; and emergency work.
6. The Ordinance sets forth what constitutes an illegal disposal, discharge and connection to the City's stormwater system. It also sets forth maintenance requirements for privately owned stormwater facilities.
7. The Ordinance sets forth lawn fertilizer restrictions.

A printed copy of the ordinance is available for inspection by any person at the office of the City Clerk and at the Shakopee Library.